

-Humanitarian Law RULES!-

Center for the Study of Humanitarian Law
Newsletter

The Jurisdiction of the International Criminal Court (ICC) on the Philippines' Situation of the "War on Drug" after its withdrawal from the Rome Statute

On 17 March, 2018, the Republic of Philippines officially deposited letter of withdrawal from the Rome Statute of the ICC. The Philippines stated in the letter that "The decision to withdraw is the Philippines' principled stand against those who politicize and weaponize human rights..."¹

Notably, the Philippines signed the Rome Statute in 2000 and ratified in 2011 which became the 117th state parties of the Statute. Thus, whether the ICC continues to have jurisdiction over the situation in the Philippines that has been put under its preliminary investigation before submitting letter of withdrawal.

Under Article 121(6) of the Rome Statute, State Party that has not accepted the amendment on the Statute may withdraw from this Statute with immediate effect by giving notice no later than one year after the entry into force of such amendment. Interestingly, under Art 127, the withdrawal takes effect one year after the date of receipt of the notification. In addition, the commentary of Art 127 states that "A state which nationals have been put under the jurisdiction of the Court by a State referral or by a Prosecutor acting proprio motu cannot terminate such proceedings by withdrawing from the Statute"

Apparently, the Philippines made the withdrawal after the ICC prosecutor launched the preliminary examination on Feb 2018. The preliminary examination will analyse the crimes that allegedly committed since 1 July 2016, when the government launched the campaign of "War on Drug". Since the operation of the campaign, thousand people have been killed due to the involvement in drug uses or dealings and clashes within gangs while many incidents involved extra-judicial killing during the operation. Extra-judicial killings may fall under the jurisdiction of the ICC if they are committed as part of a widespread or systematic attack against a civilian population pursuant to a State policy to commit such an attack. However, the preliminary examination is just the initial step for the court to determine whether there is reasonable basis to proceed with the investigation. Therefore, if the court find reasonable basis to proceed with the investigation, the court will has jurisdiction over the case.

¹ Look: *UN Receives PH Letter of Withdrawal From ICC* [Online], CNN Philippines, [Accessed date: 18 April 2018], Available at: <http://cnnphilippines.com/news/2018/03/16/PH-letter-of-withdrawal-ICC-United-Nations.html>

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April 2018

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